

ESTTA Tracking number: **ESTTA620064**Filing date: **08/07/2014**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Petition for Cancellation**

Notice is hereby given that the following party requests to cancel indicated registration.

**Petitioner Information**

|         |   |             |               |
|---------|---|-------------|---------------|
| Name    | The Moxie Beverage Company, Inc.  |             |               |
| Entity  | Corporation   | Citizenship | New Hampshire |
| Address | One Executive Park Drive, Suite 330<br>Bedford, NH 03110<br>UNITED STATES |             |               |

|                      |   |
|----------------------|---|
| Attorney information | David L. May<br>Nixon Peabody LLP<br>401 Ninth Street NW, Suite 900<br>Washington, DC 20004<br>UNITED STATES<br>nptm@nixonpeabody.com, was.managing.clerk@nixonpeabody.com,<br>dmay@nixonpeabody.com, jmolino@nixonpeabody.com Phone:202.585.8000 |
|----------------------|---|

**Registration Subject to Cancellation**

|                 |  |                   |            |
|-----------------|--|-------------------|------------|
| Registration No | 4105273  | Registration date | 02/28/2012 |
| Registrant      | Hunter, Wayne<br>154 Grand Street<br>New York, NY 10013<br>UNITED STATES |                   |            |

**Goods/Services Subject to Cancellation**


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|--|
| Class 032. First Use: 2011/03/15 First Use In Commerce: 2011/05/01<br>All goods and services in the class are cancelled, namely: Non-alcoholic bitters |
| Class 033. First Use: 2011/03/15 First Use In Commerce: 2011/05/01<br>All goods and services in the class are cancelled, namely: Alcoholic bitters     |

**Grounds for Cancellation**


|                                      |                            |
|--------------------------------------|----------------------------|
| Priority and likelihood of confusion | Trademark Act section 2(d) |
|--------------------------------------|----------------------------|

**Marks Cited by Petitioner as Basis for Cancellation**


|                       |            |                       |            |
|-----------------------|------------|-----------------------|------------|
| U.S. Registration No. | 189066     | Application Date      | 03/23/1923 |
| Registration Date     | 09/09/1924 | Foreign Priority Date | NONE       |
| Word Mark             | MOXIE      |                       |            |


|                     |   |
|---------------------|---|
| Design Mark         |   |
| Description of Mark | NONE  |
| Goods/Services      | Class 032. First use: First Use: 1885/00/00 First Use In Commerce: 1885/00/00<br>NONALCOHOLIC, MALTLESS CARBONATED BEVERAGE AND SIRUP FOR MAKING THE SAME |

|                       |   |                       |            |
|-----------------------|---|-----------------------|------------|
| U.S. Registration No. | 1399370   | Application Date      | 10/30/1985 |
| Registration Date     | 07/01/1986  | Foreign Priority Date | NONE       |
| Word Mark             | MOXIE   |                       |            |
| Design Mark           |   |                       |            |
| Description of Mark   | NONE  |                       |            |
| Goods/Services        | Class 016. First use: First Use: 1985/08/00 First Use In Commerce: 1984/08/00<br>[ STATIONERY SUPPLIES--NAMELY, PENS ]<br>Class 032. First use: First Use: 1884/00/00 First Use In Commerce: 1884/00/00<br>SOFT DRINKS AND BASES THEREFOR |                       |            |

|                       |   |                       |            |
|-----------------------|---|-----------------------|------------|
| U.S. Registration No. | 3570807   | Application Date      | 01/26/2006 |
| Registration Date     | 02/03/2009  | Foreign Priority Date | NONE       |
| Word Mark             | MOXIE ENERGY  |                       |            |
| Design Mark           |                     |                       |            |
| Description of Mark   | NONE  |                       |            |
| Goods/Services        | Class 032. First use: First Use: 2008/10/16 First Use In Commerce: 2008/10/20<br>carbonated soft drinks |                       |            |

|                       |            |                       |            |
|-----------------------|------------|-----------------------|------------|
| U.S. Registration No. | 3766342    | Application Date      | 03/26/2009 |
| Registration Date     | 03/30/2010 | Foreign Priority Date | NONE       |

|                     |  |
|---------------------|--|
| Word Mark           | MOXIE  |
| Design Mark         |    |
| Description of Mark | The mark consists of the word "MOXIE" in stylized font with an exaggerated letter "X".   |
| Goods/Services      | Class 032. First use: First Use: 2008/10/16 First Use In Commerce: 2008/10/20 Fruit-flavored beverages; Non-alcoholic beverages, namely, carbonated beverages; Soft drinks, namely, carbonated soft drinks |


|                      |   |                       |            |
|----------------------|---|-----------------------|------------|
| U.S. Application No. | 86311234  | Application Date      | 06/16/2014 |
| Registration Date    | NONE  | Foreign Priority Date | NONE       |
| Word Mark            | MOXOLOGY  |                       |            |
| Design Mark          |   |                       |            |
| Description of Mark  | NONE  |                       |            |
| Goods/Services       | Class 043. First use: First Use: 2010/11/00 First Use In Commerce: 2010/11/00 Bar services; Providing information in the nature of recipes for drinks |                       |            |

|                                    |       |                  |      |
|------------------------------------|-------|------------------|------|
| U.S. Application/ Registration No. | NONE  | Application Date | NONE |
| Registration Date                  | NONE  |                  |      |
| Word Mark                          | MOXIE |                  |      |

|                |   |
|----------------|---|
| Goods/Services | non-alcoholic, maltless carbonated beverage and syrup for making the same; soft drinks and bases therefor; carbonated soft drinks; fruit-flavored beverages; non-alcoholic beverages, namely, carbonated beverages; and soft drinks, namely, carbonated soft drinks |
|----------------|---|

|                                    |      |                  |      |
|------------------------------------|------|------------------|------|
| U.S. Application/ Registration No. | NONE | Application Date | NONE |
|------------------------------------|------|------------------|------|

|                   |      |
|-------------------|------|
| Registration Date | NONE |
|-------------------|------|

|             |  |
|-------------|--|
| Design Mark |  |
|-------------|--|

|                |   |
|----------------|---|
| Goods/Services | non-alcoholic, maltless carbonated beverage and syrup for making the same; soft drinks and bases therefor; carbonated soft drinks; fruit-flavored beverages; non-alcoholic beverages, namely, carbonated beverages; and soft drinks, namely, carbonated soft drinks |
|----------------|---|

|                                    |      |                  |      |
|------------------------------------|------|------------------|------|
| U.S. Application/ Registration No. | NONE | Application Date | NONE |
|------------------------------------|------|------------------|------|

|                   |      |
|-------------------|------|
| Registration Date | NONE |
|-------------------|------|

|           |              |
|-----------|--------------|
| Word Mark | MOXIE ENERGY |
|-----------|--------------|

|                |   |
|----------------|---|
| Goods/Services | non-alcoholic, maltless carbonated beverage; carbonated soft drinks |
|----------------|---|

|                                    |      |                  |      |
|------------------------------------|------|------------------|------|
| U.S. Application/ Registration No. | NONE | Application Date | NONE |
|------------------------------------|------|------------------|------|

|                   |      |
|-------------------|------|
| Registration Date | NONE |
|-------------------|------|

|           |          |
|-----------|----------|
| Word Mark | MOXOLOGY |
|-----------|----------|

|                |   |
|----------------|---|
| Goods/Services | Bar services; Providing information in the nature of recipes for drinks |
|----------------|---|

|             |  |
|-------------|--|
| Attachments | 71178054#TMSN.png( bytes )<br>78800015#TMSN.png( bytes ) |
|-------------|--|

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|--|--|
|  | 77700157#TMSN.png( bytes )<br>86311234#TMSN.png( bytes )<br>MOXIE (Stylized) Image 2.jpg<br>FIRM_DM-#15021361-v2-Petition_to_Cancel_(MOXY_by_Hunter).pdf(216869<br>bytes ) |
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## Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

|           |                     |
|-----------|---------------------|
| Signature | /JSM/               |
| Name      | Jeffrey S. Molinoff |
| Date      | 08/07/2014          |